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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/950,097	09/10/2001	Donald Stylinski	H0001343	2242

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EXAMINER

SAADAT, CAMERON

ART UNIT PAPER NUMBER

3713

DATE MAILED: 10/21/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/950,097

Applicant(s)

STYLINSKI ET AL.

Examiner

Cameron Saadat

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 August 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-4, 6-11, 13-16, and 18-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4, 6-11, 13-16, and 18-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

In response to amendment filed 8/11/03, claims 1-4, 6-11, 13-16, and 18-22 are pending in this application. Claims 5, 12, and 17 have been cancelled.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. **Claims 1, 6-7, 11, 13-14, are rejected under 35 U.S.C. 103(a) as being unpatentable over Huffman et al. (USPN 6,053,736; hereinafter Huffman) in view of Lin (USPN 6,478,581 B1).**

Regarding claims 1 and 7, Huffman discloses a content-providing system for a flight simulator, the system comprising: a gateway having an interface to a digital network; and at least one host computer system 16 executing a server portion of the flight simulator program; wherein the gateway is operable to receive a request for a connection to the server portion from a user executing a client portion 11 of the flight simulator program over the digital network, and to establish a connection between the client portion and the server portion such that primary

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processing for the flight simulator takes place at the server portion, and such that interface updates are processed at said client portion (Col. 5, lines 8-12).

Huffman discloses all of the claimed subject matter of claims 1, 6-7, and 13-14 with the exception of not explicitly disclosing code derived from an actual aircraft component (as per claims 1 and 7), namely a flight management system (FMS) (as per claims 6 and 13), and wherein the program is stored on a card executing in the host computer (as per claim 14).

However, Lin discloses a networked flight simulation system wherein simulation code is derived from an actual flight management system (Col. 2, lines 20-25; Col. 8, line 31; Fig. 2) and wherein the program is stored on a card (Col. 13). Hence, in view of Lin, it would have been obvious to a person of ordinary skill in the art to modify the simulation described in Huffman, by providing a simulation comprising code derived from an actual aircraft component (OFP – operational flight program) in combination with an operational training program (OTP), in order to simulate real avionics equipment in a flight simulator environment (See Lin, Col. 1-2).

Regarding claim 11, Huffman discloses a program that is an aircraft simulation program (See Abstract).

4. Claims 2-4 and 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Huffman et al. (USPN 6,053,736; hereinafter Huffman) in view of Lin (USPN 6,478,581 B1), further in view of Darago et al. (USPN 6,170,014 B1; hereinafter Darago).

The combination of Huffman and Lin discloses all of the claimed subject matter of claims 2-4 and 8-10 with the exception of not explicitly disclosing a database (as per claim 2) operable for providing authentication information of a user (as per claims 3 and 8) and billing information (as per claim 4, 9-10). However, Darago discloses a system for providing a flight simulator (Col. 1, lines 30-32) via a network, wherein the system accesses database 302 and 408 to verify user authentication information and billing information. Hence, it would have been obvious to a person of ordinary skill in the art to modify the storage unit described in the combination of

Huffman and Lin, by providing a database for user authentication and billing information, in light of the teachings of Darago, in order to provide intellectual property licensing enforcement (See Darago, Col. 6).

5. **Claims 15-16, 18 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Darago et al. (USPN 6,170,014 B1; hereinafter Darago), in view of Lin (USPN 6,478,581 B1).**

Regarding claim 15, Darago discloses system for providing access to a computer application (flight simulator) over a network, the system comprising: an interface to the network; a plurality of cards, each of said plurality of cards comprising a card processor configured to execute one of said plurality of computer applications; and a host processor in communication with the interface and with each of said plurality of cards, wherein said host processor is operatively configured to provide access to one of said plurality of card processors via said network; wherein access is based upon authentication of a credential. (See Fig. 1; Col. 6; Col. 19, lines 14-24).

Darago discloses all of the claimed subject matter of claims 15 and 18 with the exception of not explicitly disclosing code derived from an actual aircraft component (as per claim 15), namely a flight management system (FMS) (as per claims 18). However, Lin discloses a networked flight simulation system wherein simulation code is derived from an actual flight management system (Col. 2, lines 20-25; Col. 8, line 31; Fig. 2) Thus, in view of Lin, it would have been obvious to a person of ordinary skill in the art to modify the simulation described in Huffman, by providing a simulation comprising code derived from an actual aircraft component (OFP – operational flight program) in combination with an operational training program (OTP), in order to simulate real avionics equipment in a flight simulator environment (See Lin, Col. 1-2).

Regarding claim 16, Darago discloses that a plurality of computer applications may include aircraft simulation programs (Col. 1, lines 30-32).

Regarding claim 20, Darago discloses a system comprising a high-level architecture network (see Abstract).

6. **Claims 19, and 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Darago et al. (USPN 6,170,014 B1; hereinafter Darago) in view of Lin (USPN 6,478,581 B1), further in view of Huffman (USPN 6,053,736).**

The combination of Darago and Lin discloses all of the claimed subject matter of claims 19 and 21-22 with the exception of not explicitly disclosing that the network is a distributed interactive simulation network (DIS) (as per claim 19), for providing distributed mission training scenarios (as per claims 21 and 22). However, Huffman discloses a flight simulation system provided via a network, wherein the network is a distributed interactive simulation network (see Fig. 1). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to modify the network described in Darago, by providing a distributed interactive simulation network, in light of the teachings of Huffman, in order to provide a standardized network for providing interactive simulation of aircrafts, and thereby permitting remote interactive mission and training scenarios.

Response to Arguments

7. Applicant's arguments filed 8/11/03 have been fully considered but they are not persuasive.

Applicant asserts that Huffman fails to describe the step of establishing a connection between a client system and a server program across a digital network via a gateway; and that the server program comprises executable code that is based upon executable code used in an actual aircraft component. However, Huffman clearly discloses a distributive interactive simulation system interface permitting client portions 11 to communicate with an external flight simulator over a local area network (Col. 4, lines 49-55).

With regards to providing a flight simulator system comprising executable code used in an actual aircraft component, the examiner previously asserted that neither Huffman nor Darago explicitly disclose this feature. It is the examiner's position that a "simulation" is implicitly intended to resemble the real thing. Furthermore, Lin clearly discloses a flight simulator comprising code derived from an actual aircraft component (OFP – operational flight program) in combination with an operational training program (OTP), in order to simulate real avionics equipment in a flight simulator environment (See Lin, Col. 1-2).

Applicant further alleges that the motivation statements cited by the examiner are derived from the applicant's specification. However, all motivation statements are clearly derived from the cited prior art. Furthermore, the standard of patentability is what the prior art, taken as a whole, suggests to an artisan at the time of the invention. *In re Merck & Co., Inc.*, 800 F.2d 1091, 1097, 231 USPQ 375, 379 (Fed. Cir. 1986). The question is not only what the references expressly teach, but what they would collectively suggest to one of ordinary skill in the art. *In re Simon*, 461 F.2d 1387, 1390, 174 USPQ 114, 116 (CCPA 1972).

Conclusion

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cameron Saadat whose telephone number is 703-305-5490. The examiner can normally be reached on M-F 8:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Teresa J Walberg can be reached on 703-308-1327. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

CS


Teresa Walberg
Supervisory Patent Examiner
Group 37.